

House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 154

HOUSE BILL 2681

AN ACT

AMENDING SECTIONS 33-931, 33-932 AND 33-934, ARIZONA REVISED STATUTES;
RELATING TO HEALTH CARE PROVIDER LIENS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 33-931, Arizona Revised Statutes, is amended to
3 read:

4 33-931. Lien of health care provider on damages recovered by
5 person receiving services; hospital priority

6 A. Every individual, partnership, firm, association, corporation or
7 institution or any governmental unit maintaining THAT MAINTAINS and operating
8 OPERATES a health care institution or providing PROVIDES health care services
9 in this state, which AND THAT has been duly licensed by this state, or any
10 political subdivision or private entity with ambulances operated, licensed
11 or registered pursuant to title 36, chapter 21.1, is entitled to a lien for
12 the CARE AND TREATMENT OR TRANSPORTATION OF AN INJURED PERSON. THE LIEN
13 SHALL BE FOR THE CLAIMANT'S customary charges for care and treatment or
14 transportation of an injured person. , on A LIEN PURSUANT TO THIS SECTION
15 EXTENDS TO all claims of liability or indemnity, except health insurance AND
16 UNDERINSURED AND UNINSURED MOTORIST COVERAGE AS DEFINED IN SECTION 20-259.01,
17 for damages accruing to the person to whom the services are rendered, or to
18 that person's legal representative, on account of the injuries that gave rise
19 to the claims and that required the services.

20 B. If a county maintains, operates or provides health care services,
21 it is entitled to an assignment by operation of law for THE CARE AND
22 TREATMENT OR TRANSPORTATION OF AN INJURED PERSON. THE ASSIGNMENT SHALL BE
23 FOR THE CLAIMANT'S customary charges for care and treatment or transportation
24 of an injured person. on AN ASSIGNMENT PURSUANT TO THIS SECTION EXTENDS TO
25 any claims of liability or indemnity, except health insurance AND
26 UNDERINSURED AND UNINSURED MOTORIST COVERAGE AS DEFINED IN SECTION 20-259.01,
27 for damages accruing to the person to whom the services are rendered, or to
28 that person's legal representative, on account of injuries that gave rise to
29 the claims and that required the services.

30 C. The lien entitlements authorized by subsection A OF THIS SECTION
31 and the assignment authorized by subsection B OF THIS SECTION are applicable
32 to all customary charges by hospitals or ambulances of political
33 subdivisions, but are restricted to customary charges in excess of two
34 hundred fifty dollars by all other providers and privately owned ambulance
35 companies excluding interest and service charges.

36 D. Liens perfected pursuant to this article by a hospital have
37 priority for payment over all other liens authorized by this article.

38 Sec. 2. Section 33-932, Arizona Revised Statutes, is amended to read:

39 33-932. Perfecting lien; statement of claim; recording; effect

40 A. In order to perfect a lien granted by section 33-931, the executive
41 officer, licensed health care provider or agent of a health care provider
42 shall RECORD, before or within thirty days after the patient has received any
43 services relating to the injuries, except a hospital which shall RECORD
44 within thirty days after the patient is discharged, record in the office of

1 the recorder in the county in which the health care provider is located a
2 verified statement in writing setting forth ALL OF THE FOLLOWING:

3 1. The name and address of the patient as it appears THEY APPEAR on
4 the records of the health care provider. ;—

5 2. The name and location of the health care provider. ;—

6 3. The name and address of the executive officer or agent of the
7 health care provider, if any. ;—

8 4. The dates OR RANGE OF DATES of services received by the patient
9 from the health care provider. ;—

10 5. The amount claimed due for health care, ~~and to the best of the~~
11 ~~claimant's knowledge, the names and addresses of all persons, firms or~~
12 ~~corporations and their insurance carriers claimed by the injured person or~~
13 ~~his legal representative to be liable for damages arising from the injuries~~
14 ~~for which he received health care.~~

15 6. FOR HEALTH CARE PROVIDERS OTHER THAN HOSPITALS OR AMBULANCE
16 SERVICES, TO THE BEST OF THE CLAIMANT'S KNOWLEDGE, THE NAMES AND ADDRESSES
17 OF ALL PERSONS, FIRMS OR CORPORATIONS AND THEIR INSURANCE CARRIERS CLAIMED
18 BY THE INJURED PERSON OR THE INJURED PERSON'S REPRESENTATIVE TO BE LIABLE FOR
19 DAMAGES ARISING FROM THE INJURIES FOR WHICH THE PERSON RECEIVED HEALTH CARE.

20 B. The verified statement shall also include the amount claimed due
21 as of the date of recording of the claim or lien and a statement regarding
22 whether the patient's treatment has been terminated or will be continued.
23 ~~Bills~~ AMOUNTS incurred during the continued period are also subject to the
24 lien.

25 C. The claimant shall also MAIL, BY FIRST CLASS MAIL within five days
26 after recording the claim or lien, ~~mail a copy thereof by certified mail OF~~
27 ~~THE CLAIM OR LIEN to the injured person and to each person, firm or~~
28 ~~corporation claimed to be liable for damages and their respective insurance~~
29 ~~carriers, at the appropriate address given in the statement.~~ FOR HEALTH CARE
30 PROVIDERS OTHER THAN HOSPITALS OR AMBULANCE SERVICES THE CLAIMANT SHALL ALSO
31 MAIL A COPY TO ALL PERSONS, FIRMS OR CORPORATIONS AND THEIR INSURANCE
32 CARRIERS CLAIMED BY THE INJURED PERSON OR THE INJURED PERSON'S REPRESENTATIVE
33 TO BE LIABLE FOR DAMAGES ARISING FROM THE INJURIES FOR WHICH THE PERSON
34 RECEIVED HEALTH CARE. IF A HEALTH CARE PROVIDER OTHER THAN A HOSPITAL OR
35 AMBULANCE SERVICE DOES NOT RECORD THE CLAIM, LIEN OR ASSIGNMENT AS PROVIDED
36 IN THIS SECTION, THE CLAIM, LIEN OR ASSIGNMENT IS INVALID AND MAY NOT BE
37 ENFORCED BY THE CAUSE OF ACTION PROVIDED IN SECTION 33-934. If a hospital
38 records such a claim or lien, the recording shall be notice to all persons,
39 firms or corporations liable for damages, whether or not they are named in
40 the claim or lien.

41 D. A HOSPITAL OR AMBULANCE SERVICE LIEN THAT IS NOT RECORDED WITHIN
42 THE TIME PRESCRIBED BY THIS SECTION IS EFFECTIVE AGAINST ANY SETTLEMENT OR
43 JUDGMENT FOR DAMAGES IF THE LIEN IS RECORDED THIRTY DAYS BEFORE THE
44 SETTLEMENT IS AGREED TO OR THE JUDGMENT IS PAID EXCEPT IF THE LIEN IS
45 RECORDED IN A COUNTY WHERE LIENS ARE ACCESSIBLE ON THE INTERNET, THE LIEN IS

1 EFFECTIVE IF THE LIEN IS ACCESSIBLE ON THE INTERNET THIRTY DAYS OR MORE
2 BEFORE THE SETTLEMENT IS AGREED TO OR THE JUDGMENT IS PAID. IF THE LIEN IS
3 NOT RECORDED OR IS NOT ACCESSIBLE ON THE INTERNET AS PROVIDED IN THIS
4 SECTION, THE LIEN IS INVALID AND MAY NOT BE ENFORCED BY THE CAUSE OF ACTION
5 PROVIDED IN SECTION 33-934.

6 Sec. 3. Section 33-934, Arizona Revised Statutes, is amended to read:
7 33-934. Release of claim by injured person ineffective as to
8 lienholder; action to enforce lien

9 A. A release of claims on which a lien or assignment is given by
10 section 33-931 or of any judgment on that claim is not valid or effectual
11 against the lien or assignment unless the lienholder or assignee joins in the
12 release or executes a release of the lien or assignment. If any amount has
13 been or is to be collected by the injured person or that person's legal
14 representative from or on account of the person, firm or corporation liable
15 for damages by reason of a judgment, settlement or compromise, the claimant
16 or assignee of the lien or assignment may enforce the lien or assignment by
17 action against the person, firm or corporation THAT IS liable for damages,
18 OR AGAINST ANY INSURER OR OTHER PERSON, FIRM OR CORPORATION THAT IS
19 RESPONSIBLE FOR PAYING ALL OR PART OF THE DAMAGES.

20 B. ~~THIS~~ AN action PURSUANT TO THIS SECTION shall be commenced and
21 tried in the county in which the lien or assignment is filed, unless ordered
22 by the court to be removed to another county for cause. ~~If the claimant~~
23 ~~prevails~~ The court may allow reasonable attorney fees and disbursements TO
24 THE PREVAILING PARTY. The action shall be commenced within two years after
25 the entry of the judgment or the making of the settlement or compromise. IN
26 AN ACTION TO ENFORCE A LIEN OR ASSIGNMENT, THE LIENHOLDER OR ASSIGNEE MAY NOT
27 RECOVER MORE THAN THE AMOUNT OF THE LIEN OR ASSIGNMENT NOR MAY IT RECOVER
28 MORE AGAINST A DEFENDANT IN THE LIEN ACTION THAN THAT DEFENDANT IS OBLIGATED
29 TO PAY UNDER JUDGMENT OR SETTLEMENT. THE DEFENDANT IN THE LIEN OR
30 ASSIGNMENT ACTION CANNOT RAISE AS A DEFENSE IN THAT ACTION THAT IT IS NOT
31 LIABLE FOR THE AMOUNT IT IS OBLIGATED TO PAY UNDER THE JUDGMENT OR SETTLEMENT
32 EXCEPT THAT IT MAY DISPUTE THE AMOUNT OF THE LIEN ON THE GROUNDS THAT THE
33 CHARGES GIVING RISE TO THE LIEN ARE ERRONEOUS OR EXCEED THE CUSTOMARY
34 CHARGES, OR THAT THE CARE, TREATMENT OR TRANSPORTATION GIVING RISE TO THE
35 CHARGES WAS NOT MEDICALLY NECESSARY OR CAUSALLY RELATED TO THE EVENT GIVING
36 RISE TO THE CLAIM TO WHICH THE LIEN OR ASSIGNMENT EXTENDS.

37 C. THIS SECTION DOES NOT CREATE ANY RIGHTS OR CAUSES OF ACTION ON
38 BEHALF OF THE LIENHOLDER OTHER THAN ARE PROVIDED FOR IN THIS SECTION.

APPROVED BY THE GOVERNOR APRIL 23, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2004.

Passed the House March 9, 2004,

Passed the Senate April 15, 2004,

by the following vote: 58 Ayes,

by the following vote: 29 Ayes,

0 Nays, 2 Not Voting

0 Nays, 1 Not Voting

Joe Flake
Speaker of the House

Tim Blument
President of the Senate

Norman L. Moore
Chief Clerk of the House

Charmine Billings
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

19th day of April, 2004,

at 2:30 o'clock P M.

Jennifer Upbarra
Secretary to the Governor

Approved this 23 day of

April, 2004,

at 2⁰⁰ o'clock 1⁰⁰ M.

J. T. Nagel
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23 day of April, 2004,

at 3:05 o'clock P M.

Janice K. Brewer
Secretary of State

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